

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 04TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

W.P.NO.15313/1998

BETWEEN:

1. Smt.Puttamma,  
w/o Irayya,  
Age:Major,  
Occ:Household,
2. Lakkayya Bin Irayya,  
Age:Major,  
Agriculturist,
3. Manjayya Bin Irayya,  
Age:Major,
4. Nagaraju • Nagayya  
Bin Irayya,  
Age:Major,  
Agriculturist,
5. Rajayya Bin Irayya,  
Age:Major,  
Agriculturist,

All are R/o Marasuhosahalli,  
Alur Taluk.

..PETITIONERS

(By Sri B.S.Hadimani, Adv.)

AND:

1. The Tahsildar, Alur,  
Alur Taluk.
2. Assistant Commissioner,  
Sakleshpura.

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3. Mariyayya Bin Late  
Dasayya, Age:47 years,  
R/o Karatur village,  
Palya Hobli,  
HALivasti,  
Marasuhosahalli,  
Alur Taluk.

..RESPONDENTS

(By sri B.E.Kotian, Addl.Govt.Adv.)

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This writ petition is filed under Articles 226 and 227 of the constitution of India with a prayer to quash the order dt.31.3.98 vide Annex.F by R-2 confirming the order dt.26.11.97 vide Annex.D by R-1 and etc.

This writ petition coming on for prly.hg. this day, the court made the following:-

#### ORDER

Sri Kotian, learned Government Advocate is directed to take notice to respondents-1 and 2.

2. In this petition, the petitioners have called in question the correctness of the order dated 3rd May, 1998, a copy of which has been produced as Annexure-E, passed by the 2nd respondent confirming the order dated 26th November, 1997, a copy of which has been produced as Annexure-D, passed by the 1st respondent.

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3. Sri B.S.Hadimani, learned counsel apperaing for the petitioners submitted that the orders impugned are totally illegal and suffer from errors apparent on the face of the record. He points out that though the 3rd respondent has filed suit O.S.No.274/96 claiming partition and possession of allotment of one-tenth share in the lands in question, the respondents-1 and 2 have seriously erred in law in entering the name of the 3rd respondent to the extent of 1 acre of land out of 5 acres 30 guntas of land. It is also his further submission that 3rd respondent has no right whatsoever in the lands in question.

4. Whether the 3rd respondent has share in the lands in question or not is a matter which is pending adjudication before the Civil Court. At this stage, I do not find it appropriate for me to examine the said question. Since the prayer made in the said suit itself indicate that the 3rd respondent is not in possession of the suit schedule land, in my view, the entries in the revenue records will not affect the rights of the petitioners in respect of lands in question. *So far as partition of the lands are concerned* However, it is necessary to observe that the Civil court

*Wing*

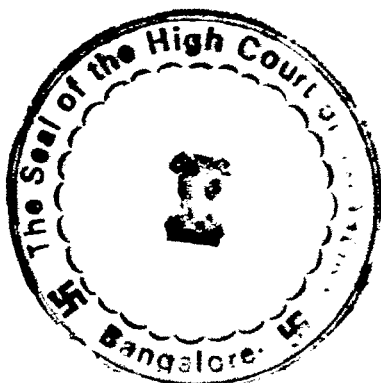
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would consider the claim of the parties on the basis of the evidence that may be placed before it without being influenced either by the entries made in the revenue records or the observation made by the Respondents-1 and 2 in the course of the orders which are impugned in this petition. It is also needless to observe that if there is any dispute with regard to possession, the parties are entitled to seek appropriate relief before the Civil court.

4. In the view, I have taken above, there is absolutely no justification to interfere against the order impugned. Accordingly, this petition is liable to be dismissed.

5. Subject to the observation made above, this petition is dismissed.

6. Sri Kotian, learned Government Advocate is given four weeks time to file his memo of appearance.



Sd/-  
JUDGE